

**Minor Project Programmatic Agreement
Between Federal Highway Administration,
the Indiana Department of Transportation,
the Advisory Council on Historic Preservation
and the Indiana State Historic Preservation Officer
Regarding the Implementation
of Section 106 Projects in Indiana**

FHWA, INDOT, and SHPO are proud to announce that the Minor Projects Programmatic Agreement (PA) has been signed by all signatories and is now in effect. The Minor Projects PA will be of use to consultants that administer Section 106 and NEPA compliance for FHWA-funded transportation projects in Indiana. In particular, the Minor Projects PA is relevant to consultants and sub-consultants that produce archaeological and historic structures work for INDOT projects.

The Minor Projects PA will save the state and LPAs money and time by exempting a set of common INDOT projects from the normal and lengthy Section 106 review process. Minor projects are those that have little to no potential to cause effect to historic properties. If a project type, activity, or undertaking is listed in the Minor Projects PA, little or no cultural resource investigation is needed and the project is exempt from the normal Section 106 process.

None of the minor projects listed in the PA require consultation with or review by the SHPO, provided the project:

- is limited to the activities specified
- is not part of a larger project
- is on an existing transportation facility
- if ground disturbance in previously disturbed soils is specified, occurs in soils previously disturbed by vertical and horizontal highway construction activities
- has no known public controversy based on historic preservation issues

Projects covered by this PA fall into two categories: minor projects that do not require review by INDOT Cultural Resources Section (INDOT-CRS) staff (Category A); and minor projects that do require documentation and review by INDOT-CRS staff to assess the likelihood that historic properties exist in the area of potential effects or determine the degree of existing soil disturbance within the project area (Category B). Both categories are listed in the appendices of the PA.

In general, Category A projects are small in scope, do not include major expansion or alteration of the current roadway footprint, and do not include the addition of new elements (such as light poles, sidewalks, curb ramps, etc.).

In general, Category B projects could have a larger scope, could include some expansion or alteration of the current roadway footprint, and could include the addition of new elements, provided they are not located near National Register eligible or listed properties. Please consult the INDOT-CRS staff to determine what types of data or documentation are required for Category B projects. Examples of documentation include County Interim Reports, the most current Historic Bridge Inventory, construction plans, project area descriptions, soil survey data, project area photographs, aerial photographs, and archaeological documentation.

Without the Minor Projects PA, all of these projects would have to go through the entire Section 106 process, as required by law. This process, including review time by multiple agencies, may take from months to years to complete. Under the Minor Projects PA, all of these common projects are exempt from the normal Section 106 process. However, this PA **does not** exempt a minor project from the normal NEPA process and documentation. Any minor project listed in the PA shall be documented in the NEPA documentation. The documentation shall reference and include the description of the specific stipulation in the PA that qualifies the project as exempt from further Section 106 review.

If the project manager, project sponsor, the INDOT District office in charge of the environmental document, and/or the INDOT-CRS determines that Category A of the PA applies to a project, then no further work needs to be produced for review under Section 106 by SHPO or FHWA.

If a project appears to fall under Category B of the PA, then INDOT-CRS **must** be contacted to determine the type of documentation INDOT-CRS staff will require for review. If INDOT-CRS determines a project falls under Category B of the PA, then no further work needs to be produced for review under Section 106 by SHPO or FHWA.

If there is a concern about the application of the PA to a specific project, or any questions regarding the PA, INDOT-CRS should be consulted.

FHWA and INDOT may visit construction sites at any time to monitor any project conducted under the Minor Projects PA, and the SHPO will be invited to participate. Should monitoring or other activities result in evidence that the requirements of this PA need modification or are not being met, FHWA, the SHPO, and INDOT will meet to develop and implement corrective measures. Should monitoring or other activities result in evidence that a project is not meeting the requirements of this PA, that project will no longer fall under the PA, and must fulfill the normal Section 106 requirements.

Minor projects implemented under the PA are listed in Appendices, so they may be easily modified or added to the list by the mutual written agreement of FHWA, INDOT, and the SHPO. If you become aware of minor projects that should be on the list, please contact the INDOT-CRS.

In the second section of the PA, for projects that **DO** require a full Section 106 process, FHWA has delegated to INDOT the authority to make determinations of: Area of Potential Effects, Eligibility and Findings of “No Historic Properties Affected” and “No Adverse Effect.” If INDOT determines, in consultation with the SHPO and consulting parties, that the project will have an adverse effect on historic properties, it will notify FHWA and FHWA will ensure the Section 106 process is completed. FHWA will continue to be responsible for making a finding of “adverse effect” and for the resolution of those effects. This second section of the PA will be in effect when the INDOT Cultural Resources Manual is completed in early-2007.

Thank you all for your cooperation in implementing this PA. If you have any questions, please contact Christopher Koepfel (ckoeppel@indot.in.gov) at 317/232-5161, Mary Kennedy (mkennedy@indot.in.gov) at 317/232-5215, or Monica Lomas (mlomas@indot.in.gov) at 317/234-4903.